Chapter 18.60
WIRELESS COMMUNICATION FACILITIES

(This is a complete rewrite of the existing chapter)

Sections:

18.60.010 Purpose.

The purpose of this chapter is to establish guidelines for the siting of *wireless communication facilities*, including *towers, satellite dishes, antennas*, and *amateur (ham) radio facilities*. The goals of this chapter are to:

A. Provide for the appropriate location and *development* of *wireless communication facilities* in locations that promote public safety and the general welfare;

B. Encourage the location of *towers, satellite dishes, and antennas* in nonresidential areas and non-view zones, and minimize the total number of *towers* and *alternative transmission support structures* throughout the community;

C. Strongly encourage the joint use of new and existing *wireless communication facility sites*;

D. Encourage wireless communication providers to configure *towers*, *satellite dishes*, *antennas* and *amateur (ham) radio facilities* in ways that minimize the adverse visual impact;

E. Enhance the ability of the providers of wireless communication services to provide such services to the community quickly, effectively and efficiently to support personal and business use;

F. Process requests for *wireless communication facility development* in a timely manner; and

G. Ensure compliance with Federal Communications Commission rules and applicable law, including standards related to *nonionizing electromagnetic radiation (NIER)*.

18.60.020 Applicability.

The standards and process requirements of this chapter supersede all other review process, *setback* or *landscaping* requirements of this title. In case of conflict with other KMC titles, the provisions of this chapter shall apply. All *wireless communication facilities* which are not exempt pursuant to KMC 18.60.030 shall comply with the provisions of this chapter. *Wireless communication facilities* in *city* rights-of-way also shall comply with the provisions of KMC Chapter 12.58.

18.60.030 Exemptions.

The following are exempt from the provisions of this chapter:

A. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the Federal Communications Commission (FCC);

B. The storage, shipment or display for sale of transmission equipment;

C. Radar systems for military and civilian communication and navigation;

D. Hand-held, mobile, marine and portable radio transmitters and/or receivers;

E. Two-way radio utilized for temporary or *emergency* services communications;

F. Any *antenna* which is treated as exempt under 47 Code of Federal Regulations (CFR) Section 1.4000(a)(1), as it may be amended from time to time, including *satellite dishes* with a diameter of

less than one meter or 39.37 inches and VHF and UHF receive-only television *antennas*. Such *antennas* shall not be required to obtain building permit approval unless installed on a mast higher than 12' above the roofline, but installation must comply with any applicable provisions of the *city* Building Code.

G. Maintenance or repair of an existing *wireless communication facility.* For any *emergency* maintenance or repair, filing of the permit application shall be required within 30 days after the completion of such *emergency* activities;

H. Reconstruction or replacement of an existing conforming *wireless communication facility* only if the dimensions of the facility are not changed. For *emergency* reconstruction or replacement, filing of the permit application shall be required within 30 days after the completion of such *emergency* activities.

18.60.040 Locational priorities.

Wireless communication facilities shall be sited according to the following siting hierarchy, with (1) being the highest (most preferable) ranking *site* and (9) being the lowest (least preferable) ranking *site*. A new *wireless communication facility*, with the exception of *amateur (ham) radio facilities*, must be located on the highest ranking *site* unless the *applicant* can demonstrate, through relevant information, including but not limited to, the report of a qualified radio frequency engineer, that the highest ranking *site* is not feasible (see KMC 18.60.080). In order of ranking, from highest to lowest, the *sites* are:

1. *Collocation* on an existing conforming *tower*
2. Rooftop *antenna* in a nonresidential zone
3. Façade *antenna* in a nonresidential zone
4. *Antenna* on a utility/light pole in a nonresidential zone
5. New *tower* in a nonresidential zone, except in the UC west, WC and CB zones (view zones)
6. Attachment of an *antenna* to a nonresidential building in a residential zone
7. Attachment of an *antenna* to a utility/light pole in a residential zone
8. New *tower* in a residential zone
9. New *tower* in the UC west, WC or CB zones (view zones)

The *applicant* shall provide a map showing all existing *towers* or other suitable *alternative transmission support structures* located within one-quarter mile of the proposed *site* with consideration given to engineering and structural requirements. No new *wireless communication facility* shall be permitted if an existing *structure* in a higher priority location, suitable for attachment of an *antenna* or *collocation*, is located within one-quarter mile, unless the *applicant* demonstrates that these *alternative locations* are not feasible.

18.60.050 Review processes and maximum allowable heights.

P – Permitted Use
C – Conditional Use – reviewed through Type 2 process outlined in KMC 19.25.020.
X – Prohibited Use[5]

	Residential zones R-1 through R-6	Residential zones R-12 through R-24, and DR	Nonresidential zones RB, UC east, DC, and NB	Nonresidential zones UC west, WC, and CB (view zones)	Other non-residential zones PSP, P, and GC
Antenna collocation on an existing conforming tower	P Maximum height: same as existing tower	P Maximum height: same as existing tower	P Maximum height: same as existing tower	P Maximum height: same as existing tower	P Maximum height: same as existing tower
Rooftop antenna	X, C[1,2] Maximum height:15' above the roof height at the antenna location	P Maximum height:15' above the roof height at the antenna location	P Maximum height:15' above the roof height at the antenna location	X	P Maximum height:15' above the roof height at the antenna location
Façade antenna	X, C[1,2] Maximum height: 2' above the roofline or parapet wall	P Maximum height: 2' above the roofline or parapet wall	P Maximum height: 2' above the roofline or parapet wall	P Maximum height: May not extend above the roofline or parapet wall	P Maximum height: 2' above the roofline or parapet wall
Amateur (ham) radio facilities	P Maximum height[3]: Ground-mounted facility - 65'. Rooftop facility - 30' above the roof height at the antenna location	P Maximum height[3]: Ground-mounted facility - 65'. Rooftop facility - 30' above the roof height at the antenna location	P Maximum height[3]: Ground-mounted facility - 65'. Rooftop facility - 30' above the roof height at the antenna location	P Maximum height: 35'	P Maximum height[3]: Ground-mounted facility - 65'. Rooftop facility - 30' above the roof height at the antenna location
Antennas on utility or light poles. (Nearest abutting zone is used to determine process if in the right-of-way.)	C[2] Maximum height: 20' additional above the existing pole, but only up to	P Maximum height: 20' additional above the existing pole, but only up to	P Maximum height: 20' additional above the existing pole, but only up to	C[2] Maximum height: 15' additional above the existing pole, but only up to	P Maximum height: 20' additional above the existing pole, but only up to

	a maximum of 50’	a maximum of 55’	a maximum of 55’	the building height limit as specified in the underlying zoning district	a maximum of 55’
Satellite dish	C[2] if no more than 2 meters (6.6’) in diameter; otherwise X Maximum height: Ground-mounted dishes - 15’. Rooftop dishes - 15’ above the roof height at the dish location	P if no more than 2 meters (6.6’) in diameter and limited to a maximum of 1 dish per site; otherwise C[2] Maximum height: Ground-mounted dishes - 15’. Rooftop dishes - 15’ above the roof height at the dish location	P if no more than 2 meters (6.6’) in diameter and limited to a maximum of 3 dishes per site; otherwise C[2] Maximum height: Ground-mounted dishes - 15’. Rooftop dishes - 15’ above the roof height at the dish location	P if ground-mounted; otherwise X Maximum height: Ground-mounted dishes - 15’	C[2] Maximum height: Ground-mounted dishes - 15’. Rooftop dishes - 15’ above the roof height at the dish location
Tower[6]	X	X	X in the DC zone; otherwise C[2,4] Maximum height: up to the building height limit as specified in the underlying zoning district	X	C[2,4] Maximum height: up to the building height limit as specified in the underlying zoning district

[1]If on a nonresidential building such as a *religious institution,* school, or *utility facility*, or on a multifamily or mixed use building.

[2]In addition to satisfying the criteria listed in KMC 18.115.040, the *conditional use permit* shall be granted by the city only if the *applicant* also demonstrates that:

A. Alternative sites, or facilities with less impact to the community have been considered and have been determined to be not feasible per KMC 18.60.080.
B. Visual impacts of the facility are minimized and the proposal does not significantly impact views to Lake Washington.

[3]*Amateur (ham) radio facilities* exceeding 65’ in height may be permitted only through a conditional use permit. In addition to satisfying the criteria listed in KMC 18.115.040, the conditional use permit shall be granted by the city only if the applicant also demonstrates that:

A. The proposal in the proposed location is necessary to support *emergency* radio operations in Kenmore.
B. Smaller facilities, with less impact to the community have been considered and have been determined to be infeasible per KMC 18.60.080.
C. Visual impacts of the facility are minimized and the proposal does not significantly impact views to Lake Washington.

[4]Prohibited on properties within the jurisdiction of the Shoreline Management Act as set forth in KMC Title 16, Division 1.
[5]Unless a major adjustment has been granted pursuant to KMC 18.60.200.
[6]*Lattice towers* shall not be permitted.

18.60.060 Distributed antenna systems (DAS) and small cells.

A. A single permit may be used for multiple distributed *antennas* that are part of a larger overall *DAS* network.

B. A single permit may be used for multiple small cells spaced to provide wireless coverage in a contiguous area.

18.60.070 Pre-application community meetings.

When either a new *wireless communication facility* requiring a *conditional use permit* or a major adjustment under KMC 18.60.200 is proposed within the *city*, a community meeting shall be convened in Kenmore by the applicant prior to submittal of an application.

A. At least two weeks in advance, notice of the meeting shall be provided by the *applicant* as follows:

1. Published in the local paper and mailed to the *department*; and

2. Mailed notice shall be provided to all property owners within 1000 feet (or at least 20 of the nearest property owners, whichever is greater) of any potential *sites*, identified by the *applicant* for possible *development*, to be discussed at the community meeting. The mailed notice shall at a minimum contain a brief description and purpose of the project, the estimated height, approximate location noted on an assessor map with address and parcel number, a photo or sketch of the proposed facility, a contact name and telephone number to obtain additional information, and such other information as the *city* shall reasonably deem necessary and require of the *applicant* in writing. For facilities other than *amateur (ham) radio facilities*, the mailed notice shall include a statement that alternative *sites* proposed by citizens can be presented at the meeting which will be considered by the *applicant*. Because the purpose of the community meeting is to promote early discussion, *applicants* are encouraged to note any changes to the conceptual information presented in the mailed notice when they submit applications.

B. At the community meeting, at which at least one employee of the *department*, assigned by the *city manager*, shall be in attendance, the *applicant* shall provide information relative to the

proposal. For facilities other than *amateur (ham) radio facilities*, the *applicant* shall identify existing facilities and other higher priority locations within one-quarter mile of the potential *site*, and shall discuss reasons why those existing locations are infeasible. Furthermore, any alternative *sites* within one-quarter mile, identified by community members and provided to the *applicant* in writing at least five days in advance of the meeting, shall be evaluated by the *applicant* to the extent possible given the timeframe, and discussed at the meeting. A listing of the *sites*, identified in writing and provided to the *applicant* at or before the community meetings, shall be submitted to the *department* with the proposed application. All *applicants* shall provide a list of meeting attendees and those receiving mailed notice and a record of the published meeting notice at the time of application submittal.

18.60.080 Criteria for determining infeasibility of alternative sites.

When an *applicant* is required to demonstrate that a proposed *wireless communication facility* location is not feasible, the evidence submitted to corroborate that finding must demonstrate at least one of the following:

A. Insufficient structural strength of an existing *structure* to support the *applicant*'s proposed *antenna* and related equipment.

B. The facility would not be of sufficient height to meet the *applicant*'s proposed area of coverage in Kenmore or to allow connection to other *sites* operated by the applicant.

C. The alternative fails to meet engineering requirements for such things as location and size.

D. The applicant's proposed *antenna* would cause interference between the proposed and existing *antennas*.

E. The *site* is not made available to the *applicant* for sale or lease at a market rate cost. The *applicant* shall demonstrate that he/she contacted the landowners or owners of structures and was denied permission by those owners to locate the facility on their land or their structures.

F. The location would result in conflicts with *FAA* height limitations.

G. The alternative is more intrusive on visual, aesthetic, neighborhood character or other community values, despite having a higher priority in KMC 18.60.040.

18.60.090 Collocation requirements.

A. Prior to the receipt of a building permit for a new *tower*, the *applicant* shall file a letter with the *department* agreeing to allow *collocation*. The agreement shall commit the *applicant* to provide, either at a market rate cost or at another cost basis agreeable to the affected parties, the opportunity to collocate the *antennas* of other service providers on the *applicant*'s proposed *tower* to the extent that such *collocation* is technically feasible for the affected parties.

B. All new or modified *towers* shall be constructed in a manner that would provide sufficient structural strength to allow the *collocation* of additional *antennas* from other service providers at the standard separation.

18.60.100 Setback requirements.

A. *Wireless communication facilities* shall meet the following setback standards:

Facility	Setbacks
Rooftop antenna	Building setback as specified in the zoning district
Façade antenna	Building setback as specified in the zoning district. See also KMC 18.30.230, Projections and structures allowed.
Amateur (ham) radio facilities	Building setback as specified in the zoning district. In addition, the facility shall be located as far as practicable from lot lines and residential structures on neighboring lots.
Satellite dish	Building setback as specified in the zoning district
Tower	50' from any residentially zoned property. Otherwise, the building setback as specified in the zoning district.

B. The *setback* provisions of KMC 18.60.100.A may be waived by the *city manager* in order to achieve greater levels of screening than that which would be available by using the stated *setback*. In waiving the requirement, the *department* shall consider the protection of adjacent residentially-zoned lands.

18.60.110 Landscaping requirements.

A *wireless communication facility site,* with the exception of an *amateur (ham) radio facility*, shall provide *landscaping* as follows:

A. When the facility is located in:

1. The NB, CB, PSP, RB, WC, UC, DC, or DR zone, the base of any *tower* and any ground equipment, whether or not in a *structure* or cabinet, shall be landscaped with eight feet of Type II *landscaping* as defined by KMC 18.35.040(B). For *satellite dishes*, the visual screen may be reduced to the height of the center of the dish on the transmitting side.

2. The R, GC, and P zones, the base of any *tower* and any ground equipment, whether or not in a *structure* or cabinet, shall be landscaped with 10 feet of Type I *landscaping* as defined by KMC 18.35.040(A). For *satellite dishes*, the visual screen may be reduced to the height of the center of the dish on the transmitting side.

B. When a security *fence* is used to prevent access to a *tower* or ground equipment, any *landscaping* required pursuant to subsection A of this section shall be placed outward of such security *fence*.

In the R zone, climbing *evergreen* shrubs or vines capable of growing on the *fence* shall supplement any *landscaping* required pursuant to subsection A of this section.

C. *Landscaping* shall be planted according to KMC 18.35.110. The *applicant* shall be required to maintain the installed *landscaping* for the life of the project per KMC 18.35.120. A two-year landscape maintenance bond shall be required to be posted at the time of permit issuance and will go into effect when the *landscaping* has been installed to ensure survivability of the plants. The amount of the bond shall be determined by the Kenmore landscaping bond quantity worksheet. Landscape maintenance will be reviewed any time a modification to an existing facility is proposed. If inadequately maintained, landscaping maintenance, or complete landscaping replacement if necessary, shall be required prior to approval of any modification.

D. Existing *vegetation* may be used and/or supplemented with additional *vegetation* to comply with the requirements of subsection A of this section.

E. The *city manager* may waive or modify the provisions for *landscaping* at the base of the *tower* and/or the ground equipment when existing *structures* on the *site* or the screening effects of existing *vegetation* on the *site* or along the *site* perimeter would preclude the ability to view these structures.

18.60.120 Concealment elements.

The goal of this section is to minimize the appearance of *wireless communication facilities*. Wireless facilities shall be designed to be minimally visible through the use of architecture, landscape architecture, siting solutions, and where feasible, through use of the smallest-scale wireless communication technology. *Wireless communication facilities* shall include concealment elements as follows:

A. All facilities:

1. Wherever possible, stealth installations such as *antennas* either hidden within existing *structures* (e.g., church steeples or cupolas) or mounted in new *structures* designed to look like non-purpose-built towers (e.g., flagpoles, fire towers, light standards, trees) are required.

2. If stealth installation is not possible, *wireless communication facilities* shall be designed to blend with existing surroundings to the extent feasible. This should be achieved through the use of compatible colors and materials, and alternative *site* placement to allow the use of topography, existing *vegetation* or other *structures* to screen the proposed facility from adjacent lands containing, in descending order of priority: existing residences, public parks and open spaces, and public roadways.

3. Except for *amateur (ham) radio facilities*, transmission and power cables and any other conduit shall be contained within the support structure or located underground.

4. Equipment facilities shall be placed underground if practicable.

5. Except as specifically required by the *FAA* or the Federal Communications Commission (*FCC*), *wireless communication facilities* shall not be illuminated, except ground equipment may use lighting for security reasons which is compatible with the surrounding neighborhood.

6. *Wireless communication facilities* shall be located and oriented in such a way as to minimize view blockage to Lake Washington.

7. No signs, symbols, flags, or banners shall be attached to, painted, or inscribed upon any *wireless communication facilities* except as follows: one sign measuring 18 inches by 12 inches upon or near the wireless communication facility which: (a) states that trespassers will be

prosecuted (if applicable); (b) lists the names and telephone numbers of persons to be contacted in the event of an *emergency*; (c) identifies the permittee or person responsible for operating the *wireless communication facility*; and/or (d) contains information necessary and convenient for the permittee or person operating the *wireless communication facility* to identify the *wireless communication facility*. Nothing in this section shall be construed to prohibit the placement of safety or warning signs upon any portion of the *wireless communication facility* which are required by law or which are designed to apprise *emergency* response personnel and the employees and agents of *wireless communication facility* providers of particular hazards associated with equipment located upon the *wireless communication facility*.

B. Rooftop antennas: The *antenna* shall be placed as close to the center of the structure as possible.

C. Façade antennas:

1. *Antennas* shall be flush-mounted within 12 inches of the face of the building or mechanical equipment screening.

2. *Antennas* shall be placed on the portion of the structure less likely to be seen from adjacent lands containing, in descending order of priority: existing residences, public *parks* and open spaces, and public roadways.

3. Colors and materials shall be chosen to provide architectural compatibility with the building.

D. Towers:

1. *Antennas* shall be flush-mounted within six inches of the *tower*.

2. A *tower* in a more open setting such as a field or parking area shall have a backdrop (for example, but not limited to, trees, a hillside, or a structure) on at least two (2) sides, be a color compatible with the backdrop, be made of materials visually compatible with the backdrop, and provide architectural or landscape screening for the remaining sides.

E. Satellite dishes:

1. In nonresidential zones, ground-mounted dishes shall be located outside of any required landscaped area and preferably located in service areas or other less visible locations.

2. In residential zones, screening shall be provided with one or a combination of the following methods to block the view of the facility as much as possible from any street and from neighboring residences: fencing, walls, landscaping, structures, or topography. Screening may be located anywhere between the facility being screened and the above-mentioned viewpoints. Landscaping for the purpose of screening shall be maintained in a healthy condition.

3. For all zones, aluminum mesh dishes are preferable to solid fiberglass dishes.

F. Amateur (ham) radio facilities:

1. Screening shall be provided with one or a combination of the following methods to block the view of the facility as much as practicable from any street and from neighboring residences: fencing, walls, landscaping, structures, or topography. Screening may be located anywhere between the facility being screened and the above-mentioned viewpoints. Landscaping for the purpose of screening shall be maintained in a healthy condition.

2. To the extent technically feasible and in compliance with safety regulations, specific paint colors may be required for camouflage purposes.

G. Antennas on utility or light poles:

1. *Antennas* shall be flush-mounted within six inches of the pole, fully concealed within the utility or light pole, or otherwise camouflaged to appear to be an integrated part of the utility or light pole.

2. Cable and/or conduit should be routed through the inside of the pole. Where this is not feasible or where routing would result in a structure of a substantially different design or substantially greater diameter than that of other similar structures in the vicinity or would otherwise appear out of context with its surroundings, the *city* may allow or require that the cable or conduit be placed on the outside of the structure. The outside cable or conduit shall be the color of the utility pole, or other support structure, and the *city* may require that the cable be placed in conduit.

3. Equipment associated with an *antenna* on a utility or light pole shall be attached to the pole, placed underground if in the right-of-way, and/or placed on adjacent private property, using stealth technology if feasible and subject to the landscaping requirements in KMC 18.60.110.

18.60.130 Minor modifications to eligible communication facilities (ECFM).

Modifications to existing *wireless communication* facilities other than *amateur (ham) radio facilities*, whether conforming or legally nonconforming, that do not substantially change the physical dimensions of the communication facility as determined by FCC regulation will be reviewed by the city as eligible communication facility modifications (ECFM). To be eligible as an ECFM the request for modification must involve: (A) collocation of new transmission equipment on an existing facility; (B) removal of transmission equipment on an existing facility; or (C) replacement of existing transmission equipment on an existing facility. For purposes of this section only, "collocation" means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communication purposes. The process provides an expedited timeframe for review and guaranteed approval of the modification. Conditions for approval of the modification may be imposed by the *city* to the extent necessary for consistency with the substantial change test (subsections (A)-(F) below) or to ensure compliance with generally applicable building, structural, electrical, and safety codes, or with other laws codifying objective standards reasonably related to health and safety.

A modification shall be determined to be a "substantial change" and not eligible as an ECFM if any one of the following apply:

A. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten (10) feet, whichever is greater.

   Changes in height shall be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or *base station*, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.

B. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet.

C. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and *base stations*, it involves installation of any new equipment cabinets on the

ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure.

D. It entails any excavation or deployment outside the current site.

E. It would defeat the concealment elements of the eligible support structure.

F. It does not comply with the conditions associated with the siting approval of the construction or modification of the eligible support structure or *base station* equipment; provided, however, that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in subsections A through D of this section.

Definitions of terms used in this section, as well as interpretations of this section, shall be guided by Section 6409 of the Spectrum Act; the FCC Eligible Facilities Request Rules, the FCC's Report and Order in, In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, WT Docket Nos. 13-238, 13-32; and WC Docket No. 11-59; FCC 14-153.

For eligible ECFM applications meeting the concealment element standards outlined in KMC 18.60.110, the maximum permit review period shall be reduced by up to 15 calendar days.

G. The provisions of this Section shall prevail over any inconsistent provisions set forth in Chapter KMC 18.100.

18.60.140 Other modifications to conforming communication facilities.

For modifications to conforming *wireless communication facilities* that do not meet the ECFM criteria set forth in KMC 18.60.130, the following standards apply:

A. *Antenna* modifications and replacements which meet the concealment element standards of KMC 18.60.120 and do not increase the overall height of the *wireless communication facility* do not require approval from the *City* or a land use permit; however, testing per KMC 18.60.150 is required.

B. Modifications that propose to increase the height of the conforming facility shall be processed as a new application, consistent with processes outlined in KMC 18.60.050, unless a minor adjustment is granted through KMC 18.60.190.A.3.

18.60.150 Radio frequency radiation compliance.

A. All *wireless communication facilities* shall comply with applicable Federal Communications Commission (FCC) regulations regarding radio-frequency emissions.

B. Permit applications for new or modified *wireless communication facilities* other than *amateur (ham) radio facilities* shall include a statement, signed by a licensed professional engineer or other qualified professional competent to perform radio-frequency emissions testing and interpret radio-frequency emissions data, that the proposed communication facility will meet all federal rules and regulations.

C. Within 14 days of the *wireless communication facility* becoming fully operational, the licensed professional engineer or other qualified professional shall submit a second signed statement verifying that the communication facility as installed meets all federal rules and regulations regarding radio-frequency emissions.

D. The city manager shall have the authority to take any necessary steps to seek FCC enforcement of the relevant standards, or, to the extent consistent with applicable law and FCC regulations, to take such other steps as may be appropriate to rectify any violation of these requirements.

18.60.160 Fencing and NIER warning signs.

A. All *wireless communication facility sites* shall comply with all federal guidelines regarding fencing.

B. When a security *fence* is used, chain link, chain link with slats, plastic, vinyl or wire fencing is prohibited unless it is fully screened from public view.

C. All *wireless communication facility sites* shall comply with all federal guidelines regarding *NIER* warning *signs*.

18.60.170 Interference.

Wireless communication facilities shall meet all federal interference rules and regulations. Regulating interference is the responsibility of the federal government.

18.60.180 Noise standards.

Any *wireless communication facility* that requires a generator or other device that will create noise audible beyond the boundaries of the site must demonstrate compliance with KMC Chapter 8.05. A noise report, prepared by an acoustical engineer, may be required; the city may require that the report be reviewed by a third party expert at the expense of the applicant. This Section does not apply to generators temporarily located at a site to operate a *wireless communication facility* in times of emergency

18.60.190 Minor adjustment to requirements.

A. A *wireless communication facility* minor adjustment is a Type 2 land use decision under KMC 19.25.020. A minor adjustment shall only apply to a request to modify the following standards:

1. Setback requirements established in 18.60.100;

2. Landscaping requirements established in 18.60.110;

3. Requests for up to 5' in additional facility height above the maximum allowable height, except in the UC west, WC and CB zones (view zones); or

4. Replacement of nonconforming *antennas*, communication equipment and/or cabling on a replacement utility or light pole, only if the replacement *antennas*, communication equipment and/or cabling have the same dimensions (height, width, etc.) as the existing *antennas*, communication equipment and/or cabling, or as nearly practicable given the dimensions of the replacement utility or light pole.

B. Criteria. An application for a *wireless communication facility* minor adjustment shall be approved only if all of the following criteria are met:

1. The adjustment is necessary because of the unique characteristics of the *wireless communication facility* or its location;

2. The adjustment is the minimum necessary to grant relief to the applicant;

3. The applicant has demonstrated that any impacts associated with the adjustment have been minimized to the maximum extent possible through the use of existing site characteristics, including, but not limited to existing vegetation, topography, or natural features; or through the use of other techniques, such as concealment elements, to improve compatibility with adjacent and nearby existing and permitted land uses; and

4. Approval of the adjustment will result in a better outcome for the community than would strict adherence to the existing standards.

18.60.200 Major adjustment to requirements.

A. A major *wireless communication facility* adjustment is a Type 3 land use decision under KMC 19.25.020. A major adjustment may be used to modify *wireless communication facility* development standards not reviewable through the minor adjustment process, as well as to allow an otherwise prohibited use.

B. Criteria. An application for a *wireless communication facility* major adjustment shall be approved only if the applicant demonstrates all of the following criteria:

1. Significant Gap in Service.

(a) A significant gap exists in the service coverage of the applicant's service network exists such that users are regularly unable to connect to the service network, or are regularly unable to maintain a connection, or are unable to achieve reliable wireless coverage within a building;

(b) The significant service gap can be filled only through an adjustment in one or more of the provisions of this Chapter; and

(c) The adjustment is narrowly tailored to fill the significant service gap such that the *wireless communication facility* conforms to this Chapter's standards to the greatest extent possible, and is the least intrusive alternative.

2. Minimization of Impacts. The adjustment would be the least intrusive means and minimize to the greatest extent possible negative impacts to surrounding properties and their uses, through facility design and/or a utilization of existing site characteristics, including, but not limited to, the site's size, shape, location, topography, improvements, and natural features. In order to demonstrate the proposed adjustment is the least intrusive alternative, the owner must provide a feasibility analysis which provides meaningful comparison of the feasibility of alternative facilities and site locations.

Negative impacts are minimized if there is:

(a) A reduction in negative visual impacts, including, but not limited to, visual clutter, based on a visual analysis; or

(b) Better preservation of views or view corridors.

18.60.210 Cessation of use.

An *antenna* shall be removed from a *tower* or *alternative transmission support structure* within 180 days after the *antenna* is no longer operational unless the owner of the *antenna* can show to the *City*'s satisfaction that the *antenna* is likely to be used again within the next six months. A *tower* for *wireless communication facilities* shall be removed within one year of the date the last *antenna* is removed. *Antennas* or *towers* that are not removed within the time frames described herein may be removed by the *City* or a contractor designated by the *City*, and the owner of the *antenna* or *tower* shall reimburse the *City* for its costs in removing the *antenna* or *tower*. The *City* may extend the deadlines listed in this

section. Nothing herein prevents a landlord from removing *antennas* of tenants who are in default under the terms of a lease agreement.

18.60.220 Third party review.

In certain instances there may be a need for expert review by a third party of the technical data submitted by the *applicant*. The *City* may require such technical review, to be paid for by the *applicant* for the *wireless communication facility*. The selection of the third party expert shall be by mutual agreement between the *applicant* and the *city*, such agreement not to be unreasonably withheld by either party. The third party expert shall have recognized training and qualifications in the field of *radio frequency* engineering.

The expert review is intended to be a site-specific review of technical aspects of the *wireless communication facility* and other matters as described herein. In particular, but without limitation, the expert shall be entitled to provide a recommendation on the location and height of the proposed facilities relative to the *applicant*'s coverage objectives and system design parameters. Such review should address the accuracy and completeness of the technical data, whether the analysis techniques and methodologies are legitimate, the validity of the conclusions and any specific technical issues outlined by the *city* or other interested parties. Based on the results of the third party review, the *city* may require changes to the application for the *wireless communication facility* that comply with the recommendations of the expert.

18.60.230 Nonconformance.

Except for eligible communication facility modifications to nonconforming facilities authorized in KMC 18.60.130 or minor adjustments to nonconforming facilities authorized in KMC 18.60.190.A.4, modifications to nonconforming *wireless communication facilities* shall be addressed through KMC Chapter 18.100, with the following additional requirements:

A. Facilities nonconforming as to height may not increase the height of the facility through the provisions of KMC18.100.070.A.1.

B. If a *conditional use permit* is required under KMC 18.100.070.C, the additional permit review criteria specified in KMC 18.60.050 Footnote 2 shall be considered. Compliance with the concealment element standards in KMC 18.60.120 shall also be required to the maximum extent practical, as determined by the *city manager*.